

Claim Rejections - 35 U.S.C. § 103

Claims 1-10, 12-13, and 15-21 have been rejected as being obvious over U.S. Patent No. 6,112,049 to Sonnenfeld in view of U.S. Patent No. 5,907,831 to Lotvin. The Examiner appears to admit that Sonnenfeld does not show or suggest requiring a test-taker to pay to take the compiled test (claims 1-10, 12, 13, 18, 19, 20, 21), the sharing of revenues by the test-maker and the proprietor of the host system (claim 12), a school enrolling a student at a set cost per school year (claim 15), a charge for a restricted directory being based on per time a test is taken (claim 16), a charge for a restricted directory being based on per time a user visits the directory (claim 17), and/or a procedure for opening an account for a test-taker (claim 21). However, he contends that these features are shown in Lotvin and it would have been obvious to incorporate them into the Sonnenfeld system.

Lotvin discloses a computer system designed to use computer technology "to motivate children to devote more time to educational and cultural enrichment." In this system, educational material is provided at a child's local computer under control of a central computer system and, upon completing a particular educational task, a child is rewarded with a certain number of points. Children's accumulated points are stored centrally.¹ Points that a child accumulates by completing educational exercises can be redeemed towards the purchase of goods and services offered through the system by commercial participants.²

Purchasing transactions can be administered by the central computer in a variety of ways. For example, the child may order goods and services by selecting from menus presented by the central computer, which, in turn, orders the selected items (via

1. Points are based on criteria consistent with the educational material and, for example, are awarded based on the level of difficulty of a given task, the child's level of performance, and other considerations, such as progress demonstrated in a certain discipline over time.

2. The offered goods and services are desirable by the children so that the prospect of obtaining these items is a motivation for the children to diligently pursue the educational materials available in the system.

telephone, e-mail, mail, or otherwise) from a vendor/distributor for delivery. The central computer may also send a message to the local computer to print out certificates redeemable at participating vendors of goods and services. Also, points may be redeemed by downloading requested goods available in digital electronic form, such as software, games, music, and video.

Parents support their children's purchasing activity financially by authorizing the system to periodically (e.g. monthly) allow purchases to be made through the redemption of the child's points, up to a certain limit, using the parents' credit card account, or makes other payment arrangements (e.g., though the use of electronic cash or direct account withdrawal). Also preferably, part of the parents' payment is used as a periodic service fee for the service provided by the preferred embodiment of this invention, while the rest is used for financing the redemption of points by the child for goods and services. Moreover, the parent can authorize a system-initiated increase in the purchasing power of the child--a "bonus"--by, for example, permitting certain advertising messages to be displayed to the child as the child uses the system.

Accordingly, in the Lotvin system, the test-taker is not required to pay to take the test. Instead, and in complete contrast, the test-taker (the child) is rewarded for taking the test.³ Accordingly, even if one were (in hindsight) to incorporate the Lotvin

3. The Examiner points to the following passage in the Lotvin patent:

FIG. 4 depicts the child dialogues subsystem in the preferred embodiment. As shown in FIG. 4, the child is presented with a high-level menu at block 401. The central computer of the preferred embodiment receives and interprets the child's response at block 402. Illustratively, the system can initiate the following capabilities based on the response from the child: the child can request presentation of educational material at block 404, elect to make a purchase through a redemption of points at block 112, or communicate with other participants of the system at 406. (Column 9, lines 36-64.)

The "purchase" referred to in this paragraph (and the "purchase subsystem 112" shown in Figure 4) corresponds to the procedure for rewarding the test taker.

"payment procedures" into the Sonnenfeld system, this would not create the system set forth in claims 1-10, 12, 13 and 18-21, which require the test-taker to pay to take the compiled test.⁴

Dependent claim 12 further specifies that the test-maker and the proprietor of the host system share the revenues generated by the test-taker taking the test. The Examiner appears to find the following disclosure in the Lotvin patent relevant:

Parents have their own way of accessing the system of the preferred embodiment, and it is preferred that the parents' password not be given to a child, who has his own, usually different password. Parents preferably use the system for several purposes. First, parents support their children's purchasing activity financially. Preferably, the parent authorizes the system to periodically (e.g. monthly) allow purchases to be made through the redemption of the child's points, up to a certain limit, using the parents' credit card account, or makes other payment arrangements (e.g., though the use of electronic cash or direct account withdrawal). Preferably, part of the parents' payment is used as a periodic service fee for the service provided by the preferred embodiment of this invention, while the rest is used for financing the redemption of points by the child for goods and services. Moreover, the parent can authorize a system-initiated increase in the purchasing power of the child--a "bonus"--by, for example, permitting certain advertising messages to be displayed to the child as the child uses the system.⁵

4. Lotvin does note that terms such as "parent," "child," and "educational materials and presentations" can have different meanings, and can be entirely unrelated to the education of children. "For example, a company's management can sponsor employee training based on the system of this invention. In such an embodiment, the company plays the role of "parent," paying for on-line courses, and employees play the role of "children," who earn college credit for their participation. The company finances educational courses and optionally exercises some control over the selected curriculum; employees take courses, which constitutes their participation." However, even in this scenario, the "test-taker" is not required to pay to take the test.

5. Column 2, lines 5-24.

It is respectfully submitted that this does not show or suggest a system wherein the test maker and the proprietor of the host system share the revenues generated by the test-taker taking the test.

Independent claim 15 sets forth that a school can enroll students at a set cost per school year, independent claim 16 sets forth that the charge for the restricted directory is based on per time a test is taken, and independent claim 17 sets forth that the charge for the restricted directory is based on per time a user visits the directory. Lotvin teaches that parents can establish an account for their children and set a payment limit to their children's account. However, the whole thrust of the Lotvin invention is to reward children based on accomplished test scores whereby this reference would appear to teach against any set costs, any per-time charges, and/or per-visit charges as this would remove the intended encouragement.

For these reasons, claims 1-10, 12, 13, and 15-21 are believed to be patentable over the applied art.

Conclusion

In view of the foregoing, the present application is believed to be in a condition for allowance and an early indication to that effect is earnestly solicited.

Should a petition for an Extension of Time be necessary for the timely reply to the outstanding Office Action (or if such a petition has been made and an additional extension is necessary) petition is hereby made and the Commissioner is authorized to charge any fees (including additional claim fees) to Deposit Account No. 18-0988, Order No. TESTP0101US.

Respectfully submitted,

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CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Date: June 24, 2002

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1. A method of making a test and posting the test on-line for potential test-takers, said method comprising the steps of:

providing a host system and a plurality of remote terminals operatively coupled to the Internet;

inputting questions at one of the remote terminals;

compiling the questions at the host system to make a compiled test;

posting the test on-line for potential test-takers;

wherein a test-taker is required to pay to take the compiled test.

2. A method as set forth in claim 1 including the steps of providing a home page that is accessible to both potential test-makers and test-takers and that allows users to cast themselves as either a test-maker or a test-taker.

3. A method as set forth in claim 1 wherein the test-maker is required to input an identifier.

4. A method as set forth in claim 1 further including the steps of editing a compiled test.

5. A method as set forth in claim 1 wherein the step of posting the step includes placing the compiled test in a directory for access by potential test-takers.

6. A method as set forth in claim 5 wherein the directory has a plurality of categories corresponding to different types of tests and wherein the compiled test is placed in the appropriate category.

7. A method as set forth in claim 6 wherein the step of placing the compiled test in a directory includes the steps of placing a just-made test into a temporary category, reviewing the test to determine the appropriate category, and then placing the test into the appropriate category.

8. A method as set forth in claim 7 further comprising the step of receiving input from the test-maker as to the appropriate category.

9. A method as set forth in claim 5 wherein the test-taker chooses a test from the directory.

10. A method as set forth in claim 9 wherein the test-taker is allowed to preview the test chosen from the directory.

12. A method as set forth in claim 1 wherein the test-maker and the proprietor of the host system share the revenues generated by the test-taker taking the test.

13. A method as set forth in claim 1 wherein the compiled test is placed in a restricted directory and the test-taker must have know a password to access the compiled test.

15. A method of posting a test on-line for potential test-takers, said method comprising the steps of:

providing a host system and a plurality of remote terminals operatively coupled to the Internet;

placing a test in a restricted directory for potential test-takers;

requiring a test-taker to input a password to have access to the restricted directory;

wherein the restricted directory includes academic practice tests and wherein a school enrolls students at a set cost per school year.

16. A method of posting a test on-line for potential test-takers, said method comprising the steps of:

providing a host system and a plurality of remote terminals operatively coupled to the Internet;

placing a test in a restricted directory for potential test-takers;

requiring a test-taker to input a password to have access to the restricted directory;

wherein the charge for the restricted directory is based on per time a test is taken.

17. A method of posting a test on-line for potential test-takers, said method comprising the steps of:

providing a host system and a plurality of remote terminals operatively coupled to the Internet;

placing a test in a restricted directory for potential test-takers;

requiring a test-taker to input a password to have access to the restricted directory;

wherein the charge for the restricted directory is based on per time a user visits the directory.

18. A system for generating and posting an on-line test, comprising:

a first computer operatively coupled to the Internet, the first computer including software means for generating the test and software means for posting the test on the Internet; and

a second computer operatively coupled to the Internet, the second computer operative to allow a user to take the test and receive test results;

wherein a test-taker is required to pay to take the compiled test.

19. A system for generating and posting an on-line test, comprising:
a host computer operatively coupled to a network backbone, the host computer including means for generating the test and means for posting the test;
a first computer operatively coupled to the host computer, the first computer being operative to generate questions for the test; and
a second computer operatively coupled to the host computer, the second computer operative to take the test
wherein a test-taker is required to pay to take the compiled test.

20. A system for generating and posting an on-line test, comprising:
host means, coupled to a network backbone, for generating the test and for posting the test;
means, operatively coupled to the host means, for generating questions for the test; and
means, operatively coupled to the host means, for taking the test;
wherein a test-taker is required to pay to take the compiled test.

21. A method as set forth in claim 1 wherein the host system includes a procedure for opening an account for a test-taker.

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